ness within its limits. *Paul* v. *Virginia* (U. S. 1868) 8 Wall. 168. By doing such business, the corporation is assumed to consent. See *St. Clair* v. *Cox* (1882) 106 U. S. 350, 356, 1 Sup. Ct. 354. Federal courts interpret statutes authorizing state officials to receive service for non-resident corporations as applying only to causes of action arising in the state. *Simon* v. *Southern Ry.* (1915) 236 U. S. 115, 35 Sup. Ct. 255. But if a state court holds that a statute requiring appointment of an agent gives, upon compliance therewith, jurisdiction over causes of action arising outside the state, the federal courts follow that construction and sustain the statute. *Pennsylvania Fire Ins. Co.* v. *Gold Issue Mining Co.* (1917) 243 U. S. 93, 37 Sup. Ct. 344. The distinction is made because the consent in *Simon* v. *Southern Ry., supra,* was fictitious; but where, as in *Pennsylvania Fire Ins. Co.* v. *Gold Issue Mining Co., supra,* an agent is appointed, the consent is actual. See *Bagdon* v. *Philadelphia & Reading C. & I. Co.* (1916) 217 N. Y. 432, 436, 437, 111 N. E. 1075; *Pennsylvania Fire Ins. Co.* v. *Gold Issue Mining Co., supra,* 95, 96. This theory supports the intimation in the instant case that a foreign corporation, although not doing business in the state, would, in return for the privilege of doing business, be amenable to process if it had appointed an agent in compliance with a statute thus broadly interpreted by the state courts. It was supposed, however, that a statute so construed would be void as imposing an "unconstitutional condition." See *Baltic Mining Co.* v. *Commonwealth of Mass.* (1913) 231 U. S. 68, 83, 34 Sup. Ct. 15. But decisions under the two theories can scarcely be reconciled as the "exclusion" doctrine of *Paul* v. *Virginia, supra,* upon which the contract theory rests, is in effect limited by the doctrine of "constitutional limitations." See Henderson, *The Position of Foreign Corporations in American Constitutional Law* (1918) 146, 147.

CONSTITUTIONAL LAW—TAXATION—PRODUCTS OF CHILD LABOR.—The plaintiff corporation sued a former internal revenue collector to recover a tax paid under the Revenue Act of February, 1919 imposing a 10% tax on profits from sales of goods manufactured by establishments employing children under certain ages. *Held,* for the plaintiff. The statute was unconstitutional as Congress has no power to regulate purely internal affairs of the state. *Drexel Furniture Co.* v. *Bailey* (D. C., W. D. N. C. 1921) 276 Fed. 452.

The fiscal powers of Congress have been most broadly interpreted. See *McCulloch* v. *Maryland* (U. S. 1819) 4 Wheat. 316, 431, 435; *Flint* v. *Stone Tracy Co.* (1911) 220 U. S. 108, 153, 31 Sup. Ct. 342. A statute imposing a tax is valid even though it in effect controls matters which only the state governments may regulate directly. *Veazie Bank* v. *Fenno* (1869) 75 U. S. 533; *McCray* v. *United States* (1904) 195 U. S. 27, 24 Sup. Ct. 769. It is immaterial that this control is the real motive for imposing the tax. *United States* v. *Doremus* (1919) 249 U. S. 86, 39 Sup. Ct. 214; *McCray* v. *United States, supra.* The Supreme Court decided that transportation of certain kinds of goods was not a question of interstate commerce and that congress had, therefore, no power to prohibit such transportation since to do so would interfere with state rights. *Hammer* v. *Dagenhart* (1918) 247 U. S. 251, 38 Sup. Ct. 529. The court in the instant case and in *George* v. *Bailey* (D. C. 1921) 274 Fed. 639 based its decisions mainly on *Hammer* v. *Dagenhart, supra.* It may be that the Supreme Court, in order to protect state rights, will extend the doctrine of that case, overrule *McCray* v. *United States, supra,* and the other taxation cases, and hold the statute under consideration unconstitutional because its primary purpose is to control manufacturing conditions. But those cases are still law and the district court should have followed them.

CORPORATIONS—ENTITY—ESTOPPEL BY LEASE.—D and S, optionees of mining rights

from M, before exercising the option, leased the rights to the defendant for twenty years. The defendant entered and prepared to mine. D and S then organized the X corporation of which they became directors and owners of 95% of the stock. Through them the X corporation secured from M a lease of the same mining rights for twenty years. The X corporation sought to enjoin the defendant from removing coal. *Held,* for the defendant. *Burnett Coal Mining Co.* v. *Schrepferman* (1921 Ind.) 133 N. E. 34.

A lessor is estopped from asserting against his lessee an after-acquired title. *Webb* v. *Austin* (1845) 7 Man. and G. 700. It has always been possible to convey a subsequently acquired interest by operation of the estoppel without the aid of equity. See *McAdams* v. *Bailey* (1907) 169 Ind. 518, 82 N. E. 1057. A subsequent grantee, though an innocent purchaser for value, is bound by the estoppel. *White* v. *Patten* (1840) 41 Mass. 324; *Teffy* v. *Munson* (1874) 57 N. Y. 97; *contra, Calder* v. *Chapman* (1866) 52 Pa. St. 359. Thus the after-acquired title actually passes, or "feeds the interest by estoppel." See *Webb* v. *Austin, supra,* 727. The grantor cannot defeat the estoppel by procuring title to the after-acquired property to be taken in the name of the third person. *Collins* v. *Buffalo Ry.* (1911) 145 App. Div. 148, 129 N. Y. Supp. 139. In the *Collins* case, the third person paid nothing and took no part in the transaction. Here the corporation secured the lease and bound itself through its authorized agents. The court ignored the corporate existence of X and held that it was also estopped. The owner of all the corporate stock does not thereby own the corporation's property. *Button* v. *Hoffman* (1884) 61 Wis. 20, 20 N. W. 667; *Saranac & L. P. R. R.* v. *Medina Gas Co.* (1900) 162 N. Y. 67, 56 N. E. 505; *contra, Swift* v. *Smith* (1886) 65 Md. 428, 5 Atl. 534. But where the property is transferred to the corporation for the purpose of defeating the claimant's rights the entity will be disregarded. *Montgomery Web Co.* v. *Dinelt* (1890) 133 Pa. St. 585, 19 Atl. 428. Regarding the X corporation as D and S acting under another name, the defendant's title is protected by the estoppel. See *Rutz* v. *Obear* (1911) 75 Cal. App. 435, 115 Pac. 67. The instant case is correctly decided.

COURTS—COUNTERCLAIM IN EXCESS OF COURT'S JURISDICTION.—The now defendant brought an action against the now plaintiff in the Municipal Court. The latter set up a counterclaim for $3000. The jury found for him on the counterclaim, and the court allowed a judgment to be entered for $1000. Suit is now for the balance. *Held,* no recovery. *Silberstein* v. *Begun* (Ct. of App. 1922) 66 N. Y. L. J. 1526.

The jurisdiction of the New York City Municipal Court on counterclaims is limited to $1000. N. Y., Laws 1915, c. 279, § 86. The statute says nothing about the judgment being a bar to a subsequent action, but the former Municipal Court Act specifically allowed the subsequent action. N. Y., Laws 1902, c. 580, § 157. In general a defendant who has set up a counterclaim and had it adjudicated is barred by the judgment from bringing another action on it. *Srere* v. *Gottesman* (C. C. A. 1920) 270 Fed. 188; *Brinn* v. *Hindlemann, Inc.* (App. Div. 1922) 192 N. Y. Supp. 34. He would be confronted either with *res judicata* or the common law antipathy to splitting causes of action. See (1922) 22 COLUMBIA LAW REV. 180. As a rule a defendant is not required to set up his claim against the plaintiff as a counterclaim but may wait and sue on it as a separate action. *Hathaway* v. *Ford Motor Co.* (C. C. A. 1920) 264 Fed. 952. Some states require a defendant in a court of limited jurisdiction to plead any counterclaim he may have. *Stout* v. *Martin* (1920) 87 W. Va. 1, 104 S. E. 157. But if the claim would exceed the court's jurisdiction he is not required to plead it. *Harrison* v. *Dickerson* (1916) 89 N. J. L. 712, 99 Atl. 325. It would seem that the interpretation of the statute